

**ODISHA INFORMATION COMMISSION  
BHUBANESWAR**

**PRESENT**

**Shri Pramod Kumar Mohanty,  
State Information Commissioner**

**Dated 19<sup>th</sup> March, 2013**

**Second Appeal No. 879/2012**

Siva Sankar Chaini,  
At. Baseli Sahi,  
Dist. Puri.

.... Appellant

Vrs.

- (1) Public Information Officer,  
(2) First Appellate Authority,  
Cuttack Municipal Corporation,  
Cuttack.

.... Respondents

**DECISION**

1. Appellant, Siva Sankar Chaini is present. Bijoy Kumar Das, PIO-cum-Recovery Officer, Cuttack Municipal Corporation is also present. The written memorandum filed by the PIO is perused and taken to record. Heard and perused the case record.
2. Appellant filed application in form-A with the P.I.O., Cuttack Municipal Corporation for information regarding the details of deductions made from the salary of one Mrs. Bijayalaxmi Panda, Asst. Teacher, Municipality UGME School, Choudhuri Bazar, Cuttack for the period from April 2006 till the date of application. The P.I.O., though furnished the particulars of pay, DA and gross salary to the appellant refused to provide the details of the deductions from the salary for the aforesaid period on the ground that the information sought was exempted under Section 8(1)(j) of RTI Act. Thereafter appeal was preferred before the First Appellate Authority who also concurred in the view taken by the P.I.O. and rejected the appeal vide his order dated 19.4.2012. The appellant thereafter filed this Second Appeal challenging the order of First Appellate Authority mainly on the ground that the information sought was not exempted under Section 8(1)(j) of RTI Act and that the information which cannot be denied to the Parliament or a State Legislature should not be denied to any person. In this regard, he relied upon a decision reported in AIR 2007-Karn. 136.

3. The Commission heard the appellant and the P.I.O. and perused the documents available on record including the response filed by third party Mrs. Bijayalaxmi Panda.
4. The appellant wanted information about the details of the deductions from the salary of Mrs. Bijayalaxmi Panda, Assistant Teacher who is admittedly a third party. Mrs. Panda in her response to the PIO had stated that she was involved in litigations with her husband and his family members pending in the court of law. If the aforesaid information is released, she will be prejudiced as the same will weaken her case. The PIO has furnished the information regarding the gross salary drawn by Mrs. Panda. The details of deductions from the salary of a third party are personal information in nature. Such disclosure in absence of any relation to any public activity or public interest would certainly cause unwarranted invasion on the privacy of the individual and therefore disclosure of such information is protected under Section 8(1) (j) of RTI Act.
5. In almost a similar case like the one in hand, Hon'ble High Court of Delhi in the case of Vijay Prakash v. Union of India and Ors. reported in AIR 2010 Delhi 7 were pleased to observe and hold at para-22 of the judgements as below:-

A private individual's right to privacy is undoubtedly of the same order as that of a public servant. Therefore, it would be wrong to assume that the substantive rights of the two differ. Yet, inherent in the situation of the latter is the premise that he acts for the public good, in the discharge of his duties, and is accountable for them. The character of protection, therefore, which is afforded to the two classes – public servants and private individuals, has to be viewed from his perspective. The nature of restriction on the right to privacy is therefore of a different order; in the case of private individuals, the degree of protection afforded is greater, in the case of public servants, the degree of protection can be lower, depending on what is at stake. Therefore, if an important value in public disclosure of personal information is demonstrated, in the particular facts of a case, the protection afforded by Section 8(1)(j) may not be available; in such case, the information officer can proceed to the next step of issuing notice to the concerned public official, as a "third party" and consider his views on why there should be no disclosure. The onus of showing that disclosure should be made, is upon the individual asserting it; he cannot merely say that as the information relates to a public official, there is public interest element. Adopting such a simplistic argument would defeat the object of Section 8(1)(j); the legislative intention in carving out an exception from the normal rule requiring no "locus" by virtue of Section 6, in the case of exemptions is explicit through the non obstante clause. The Court is also unpersuaded by the reasoning of the Bombay high Court, which appears to

have given undue, even overwhelming defence to Parliamentary privilege (termed “plenary” by that Court) in seeking information, by virtue of the proviso to Section 8(1)(j). Were that the true position, the enactment of Section 8(1)(j) itself is rendered meaningless, and the basic safeguard bereft of content. The proviso has to be only as confined to what it enacts, to the class of information that Parliament can ordinarily seek; if it were held that all information relating to all public servants, even private information, can be accessed by Parliament, Section 8(1)(j) would be devoid of any substance, because the provision makes no distinction between public and private information. Moreover there is no law which enables Parliament to demand all such information; it has to be necessarily in the context of some matter, or investigation. If the reasoning of the Bombay High court were to be accepted, there would be nothing left of the right to privacy, elevated to the status of a fundamental right, by several judgements of the Supreme Court.

6. In the case in hand the appellant sought for the details of deductions from the salary of a third party which was protested on the ground that release of such information would cause prejudice to her in the court case pending between herself and her husband and in-laws. The information sought being of personal in nature and there being no element of public interest in favour of disclosure, by application of the ratio decidendi prescribed in the case of Vijay Prakash and the facts of the case being quite distinguishable from the decision relied upon by the appellant, the Commission is of the view that the information sought for is exempted under Section 8(1)(j) of RTI Act and therefore cannot be provided.
7. In the result, the orders of the First Appellate Authority is confirmed and the Second Appeal disposed of accordingly.

**Pronounced in open Proceedings**

Given under the hand and seal of the State Commission, this the 19<sup>th</sup> Day of March, 2013.

**Sd/-**

**State Information Commissioner**